



Board of Adjustment Case Report

City of Raleigh
Department of City Planning
One Exchange Plaza
Raleigh, NC 27601
(919) 996-2626
www.raleighnc.gov

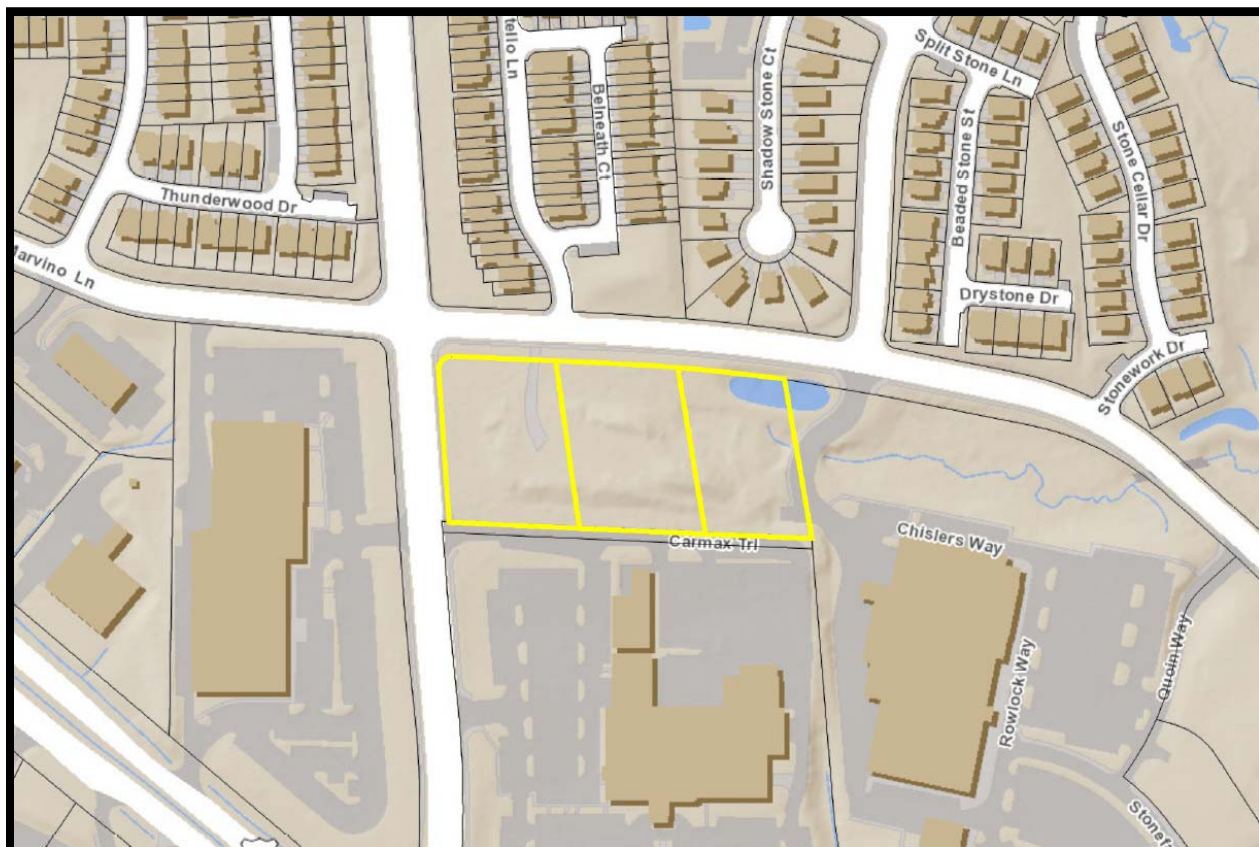
Case File: A-107-17

Property Address: 8551, 8531 and 8511 Marvino Lane

Property Owner: MDI Management, LLC

Project Contact: Isabel Mattox

Nature of Case: A request for complete relief from the Parkway frontage requirements set forth in Section 3.4.3. of the Unified Development Ordinance and any Parkway Frontage associated tree conservation requirements set forth in Section 9.1.4. of the Unified Development Ordinance resulting in no requirement for a heavily landscaped 50' parkway buffer along Marvino Lane on a 3.4 acre parcel zoned Commercial Mixed-Use 3 Parkway Conditional Use.

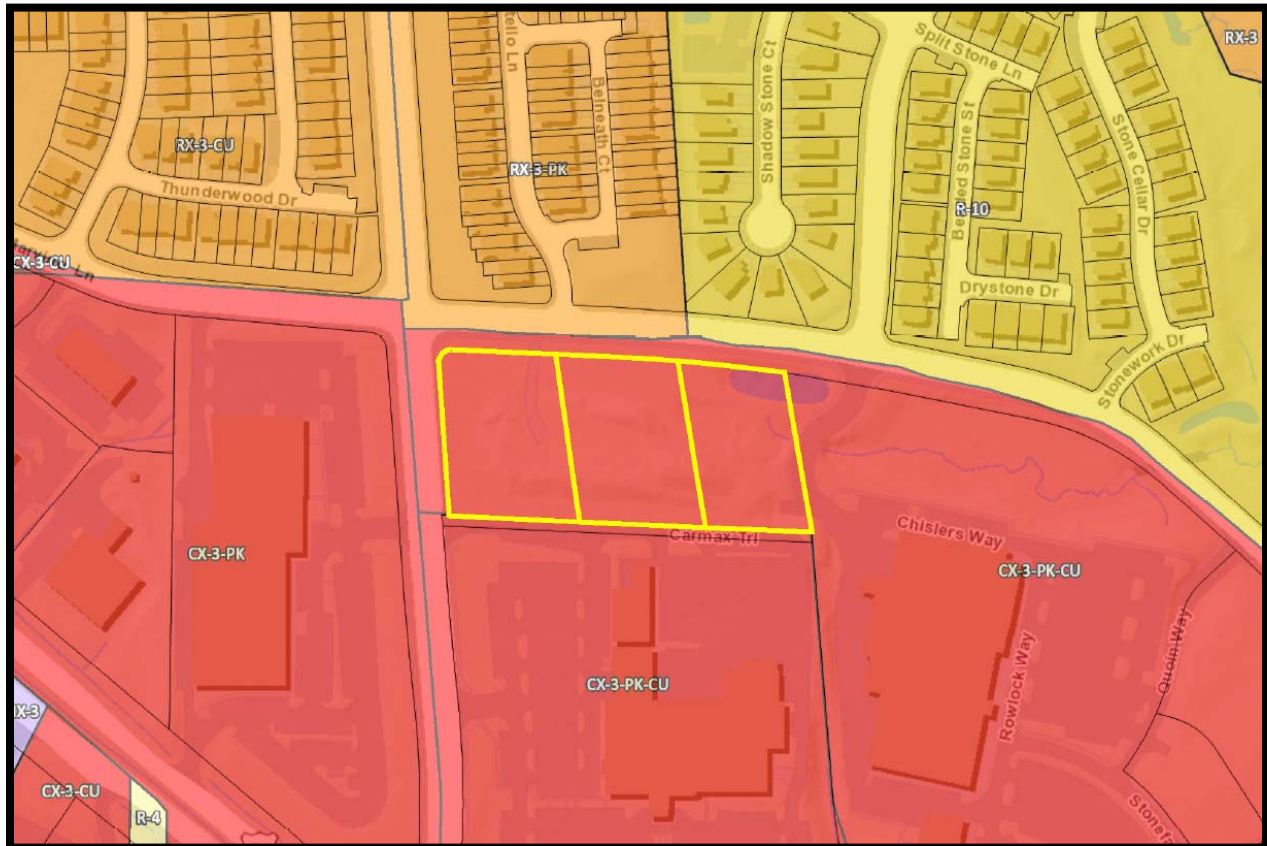


8551, 8531, & 8511 Marvino Lane – Location Map

To BOA: 9-11-17 (A-107-17)

3-13-17: (A-41-17) Received complete relief from the 50' Parkway frontage Protective Yard requirements of Section 3.4.3. for the portion of the property along Marvino Lane that is encumbered with a private stormwater maintenance/access easement along the north east corner of the property.

Staff Coordinator: Eric S. Hodge, AICP



ZONING

DISTRICTS: Commercial Mixed-use-3 Parkway Conditional Use District

8551, 8531, & 8511 Marvino Lane– Zoning Map

VARIANCE STANDARDS: In accordance with UDO [§10.2.10 Variance](#), before a variance request is granted, the Board of Adjustment shall show all of the following:

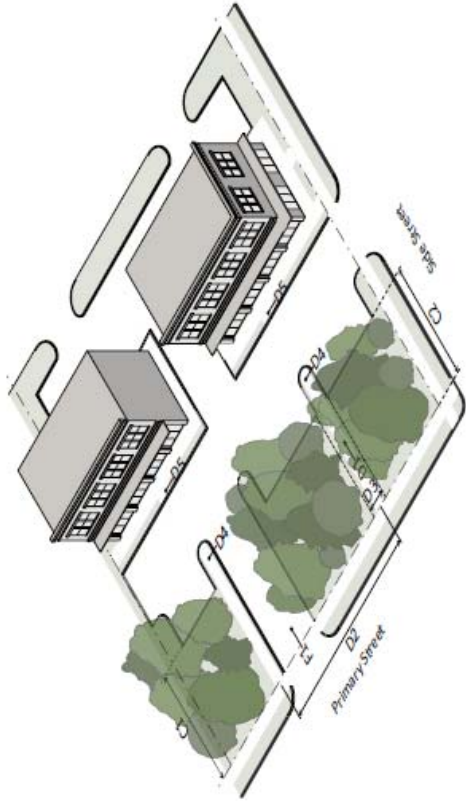
1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from

personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.

Zoning District Standards: The subject property is zoned Commercial Mixed-Use-3-Parkway Conditional Use District

Sec. 3.4.3. Parkway (-PK)



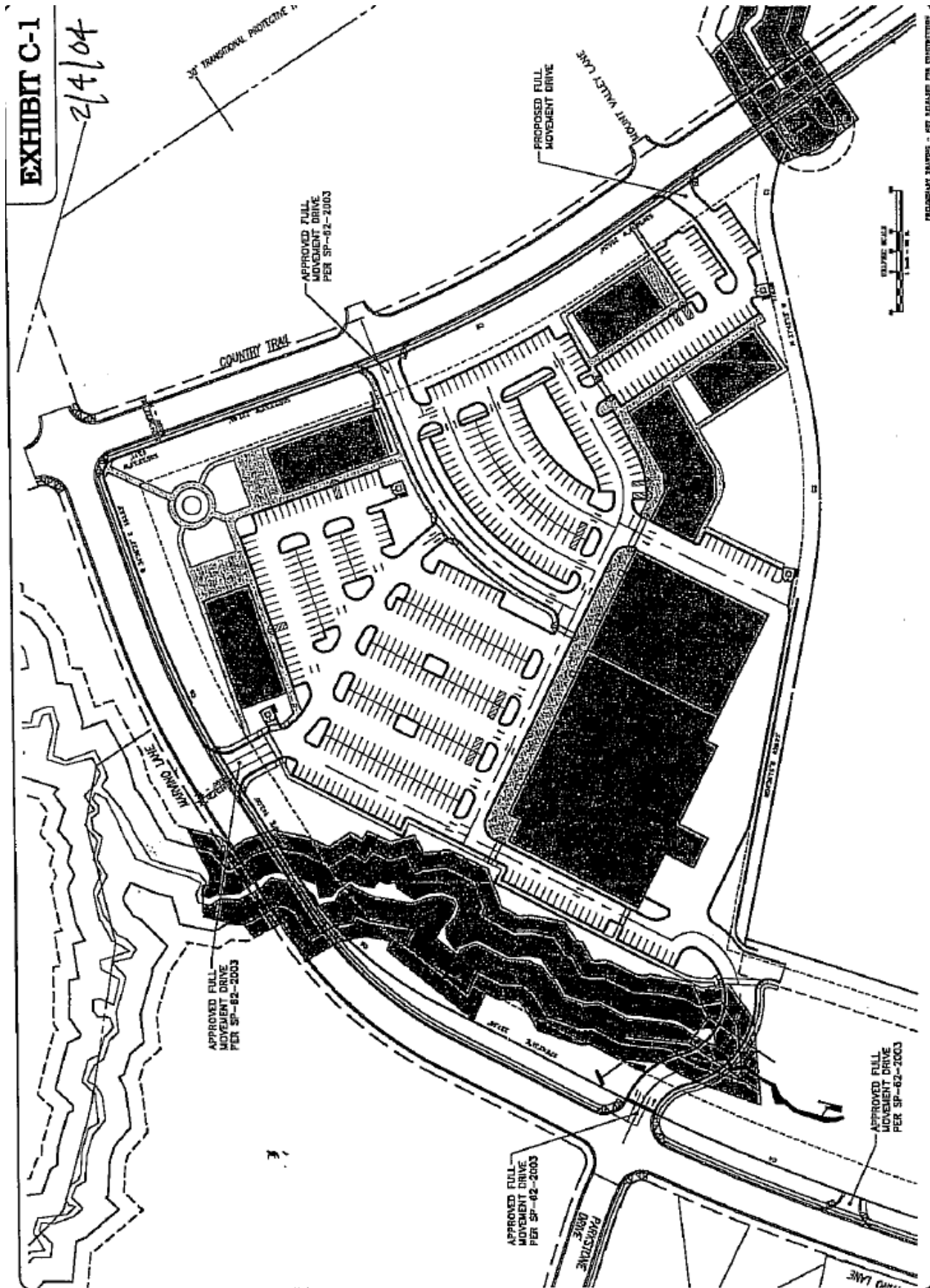
A. Description	
Provides for a heavily landscaped buffer between the roadway and adjacent development to ensure a continuous green corridor along the street right-of-way.	
B. Building Types Allowed	
Detached house (see Sec. 3.2.1.)	General building (see Sec. 3.2.5.)
Attached house (see Sec. 3.2.2.)	Mixed use building (see Sec. 3.2.6.)
Townhouse (see Sec. 3.2.3.)	Civic building (see Sec. 3.2.7.)
Apartment (see Sec. 3.2.4.)	Open lot (see Sec. 3.2.8.)
C. Additional Setbacks	
C1 Building setback from primary street (min)	50'
C2 Parking setback from primary street (min)	50'

D. Pedestrian Access	
D1 Pedestrian access required (minimum of 1 per lot)	Yes
D2 Pedestrian access way spacing (max)	300'
D3 Width of pedestrian access way (min/max)	10'/20'
D4 A road or driveway with a sidewalk at least 6 feet in width may substitute for a required pedestrian access way	
D5 Direct pedestrian access is required from the public sidewalk to the primary entrance of the building	
E. Protective Yard Landscaping	
E1 The 50-foot protective yard must be landscaped in accordance with Sec. 5.3.1.F. (SHOD-1 requirements) or Sec. 5.3.1.H. for expansions and additions.	
F. Protective Yard Encroachments	
F1 Driveways	see Sec. 8.3.5.
F2 Ground signs	see Article 7.3.
F3 Pedestrian access way	
G. Streetscape Requirement	
Sidewalk & tree lawn	see Sec. 8.5.2.G.

Z-8-04 – on the south side of Marvino Lane, between Ebenezer Church Road and Country Trail. Approximately 18.64 acres to be rezoned from Thoroughfare District Conditional Use to Thoroughfare District Conditional Use with revised conditions.

Conditions: 02/04/04

- (1) Allowed land uses upon the Property shall consist only of Commercial, Institution/Civic/Services, Office, and/or Residential uses as set forth in the Schedule of Permitted Land Uses in Zoning Districts for the Thoroughfare District in Section 10-2071 of the Raleigh City Code.
- (2) Vehicular access to the Property shall be limited to no more than five (5) locations as generally shown on the map attached hereto as Exhibit C-1



Application for Variance



RALEIGH
DEPARTMENT OF
CITY PLANNING



Department of City Planning | 1 Exchange Plaza, Suite 300 | Raleigh, NC 27601 | 919-996-2626

Submit application to: Development Services Customer Service Center, 1 Exchange Plaza, Suite 400, Raleigh, NC 27601

NATURE OF REQUEST	OFFICE USE ONLY
<p>Nature of variance request (If more space is needed, submit addendum on separate sheet):</p> <p>See attached Exhibit A.</p>	<p>Transaction Number</p> <p>A-107-17</p>
<p>Provide all previous transaction numbers for Coordinated Team Reviews, Due Diligence Sessions, or Pre-Submittal Conferences. If this property was the subject of a previous variance request, provide the case number.</p> <p>Transaction #490846 and BOA Case No. A-41-17</p>	

GENERAL INFORMATION		
Property Address 8551, 8531 & 8511 Marvino Lane, Raleigh, NC 27616	Date August 11, 2017	
Property PIN 0777678891, 0777770890 & 0777772779	Current Zoning CX-3-PK-CU	
Nearest Intersection Marvino Lane & Ebenezer Church Road	Property size (in acres) 3.4 acres	
Property Owner MDI Management, LLC	Phone	Fax
Owner's Mailing Address 120 4th Street SW, Hickory, NC 28602-2947	Email	
Project Contact Person Isabel Worthy Mattox	Phone 919-828-7171	Fax 919-831-1205
Contact Person's Mailing Address PO Box 946, Raleigh, NC 27602	Email isabel@mattoxfirm.com	
Property Owner Signature <i>John B. Orgain, Manager</i>	Email john.orgain@alexlee.com	
<p>Notary</p> <p>Sworn and subscribed before me this <u>10TH</u> day of <u>August</u>, 20<u>17</u></p>	<p>Notary Signature and Seal</p> <p><i>Leah Poovey</i></p> <p>LEAH POOVEY NOTARY PUBLIC CATAWBA COUNTY, NC</p>	

EXHIBIT A
To Application for Variance

Property Owner: MDI Management, LLC
Property Address: 8551, 8531 and 8511 Marvino Lane (the "Property")

Nature of Request:

A. Applicant requests complete relief from the Parkway frontage requirement and any applicable associated Parkway streetscape requirement throughout the Property based on the following:

1. Hardship conditions of sanitary sewer and storm water drainage easements along Marvino Lane;
2. Established BOA precedent of granting complete relief of Parkway frontage requirement under UDO Section 3.4.3 along streets where Parkway frontage was never intended. See Case No. A-40-17;
3. Existing development in the subject neighborhood does not comport with Parkway frontage; and
4. Desire to activate street with pedestrian activity—walking in neighborhood and walking to and from retail goods and services.

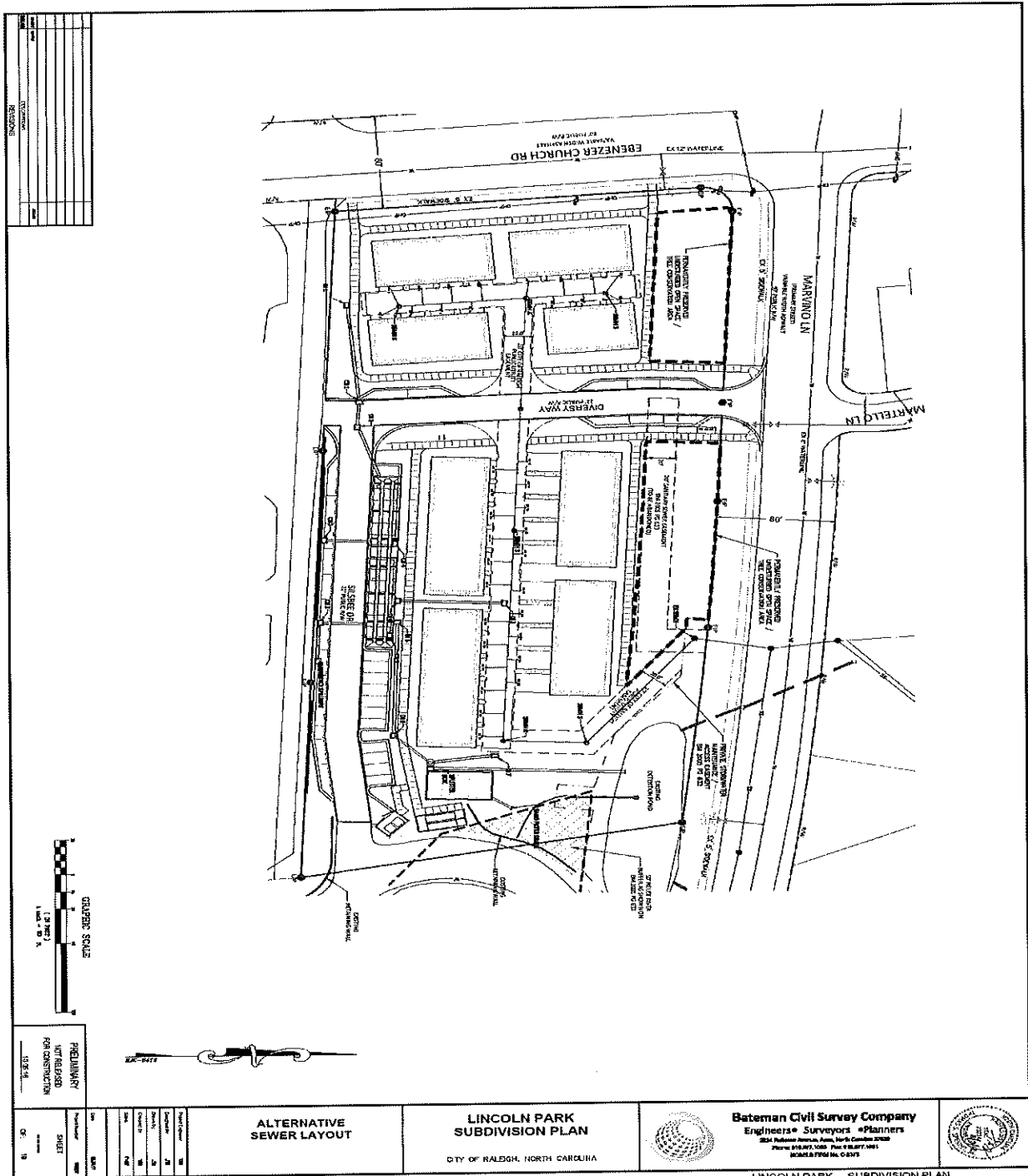
B. In the alternative, if complete relief cannot be granted, Applicant requests (1) relief in the area needed for a sanitary sewer easement coming from Marvino Lane to serve the Property, as shown on Exhibit B; (2) relief from the TCA requirement within and immediately south of the Private Stormwater Maintenance and Access Easement (the "Drainage Easement"), recorded in Book of Maps 2005, Page 633, as previously granted (2) relief from the Parkway frontage requirement for all internal streets.

1. The topography of the site dictates the placement of a sewer line in the specified location rather than in the location of the existing sanitary sewer easement.
2. Maintenance of a TCA is not possible in the drainage easement and requiring it immediately below the drainage easement eliminates a tremendous amount of the developable land on site.
3. The Parkway frontage was never intended to be applicable to neighborhood streets.

EXHIBIT B

To Application for Variance

Property Owner: MDI Management, LLC
 Property Address: 8551, 8531 and 8511 Marvino Lane



0777770890
0777770890
MDI MANAGEMENT LLC
120 4TH ST SW
HICKORY NC 28602-2947

0777675547
GLENWOOD AVENUE 8600 LLC
PO BOX 2346
SMITHFIELD NC 27577-2346

0777678891
MDI MANAGEMENT LLC
120 4TH ST SW
HICKORY NC 28602-2947

0777685172
VICENS, DAVID L
8607 THUNDERWOOD DR
RALEIGH NC 27617-8732

0777686102
HUNS, NICOLA J
8605 THUNDERWOOD DR
RALEIGH NC 27617-8732

0777687380
CORNERSTONE VILLAGE
HOMEOWNERS ASSN INC
100 EUROPA DR
CHAPEL HILL NC 27517-2357

0777688182
TAGSOLD, STEVEN P
TAGSOLD, JENNIFER T
8211 MARTELLO LN
RALEIGH NC 27613-6968

0777688190 HOSSAIN,
REZOWAN 2001 REID ST
PALATKA FL 32177-2939

0777689008
BROWN, DAVID F WYATT, PAMELA
4 GUNGARTEN CL
KELLYVILLE NSW 2155
AUSTRALIA

0777689016
SPENCER-WALTERS, TOM J
SPENCER-WALTERS, DESIREE L
32121 BIG OAK LN
CASTAIC CA 91384-4122

0777770697
COLE CM RALEIGH NC LLC
CARMAX AUTO INC
PO BOX 29965
RICHMOND VA 23242-2965

0777771272
SPIRIT MASTER FUNDING VI LLC
SPIRIT REALTY CAPITAL
16767 N PERIMETER DR STE 210
SCOTTSDALE AZ 85260-1062

0777772779
MDI MANAGEMENT LLC
120 4TH ST SW
HICKORY NC 28602-2947

0777775949
SHANK, ADAM 8201
BEADED STONE ST
RALEIGH NC 27613-6947

0777776392
CORNERSTONE COMMONS FEE OWNER
LLC
3735 BEAM RD UNIT B
CHARLOTTE NC 28217-8800

0777781028
CORNERSTONE VILLAGE HOMEOWNERS
ASSN INC
100 EUROPA DR
CHAPEL HILL NC 27517-2357

0777782055
MEEKS, JAMES A
8201 SHADOW STONE CT
RALEIGH NC 27613-5211

0777782110
KHALIL, IMAD M
KHALIL, MARY LENORE
8409 BILLINGSWORTH WAY
RALEIGH NC 27613-6985

0777783024
DUSABLON, ROBERT FRANCIS
DUSABLON, CLAUDINE KEE
8200 SHADOW STONE CT
RALEIGH NC 27613-5210

0777783095
FRENCH, MARILYN KAY
8202 SHADOW STONE CT
RALEIGH NC 27613-5210

0777684079
GLENWOOD CROSSING
HOMEOWNERS ASSN INC.
C/O PPM INC
11010 RAVEN RIDGE RD
RALEIGH NC 27614-8837

0777787260
CORNERSTONE PARK SINGLE FAMILY
ATTACHED RESIDENCES...
2301 SUGAR BUSH RD STE 400
RALEIGH NC 27612-2957

0777689197
TADROS, GUIRGUIS BASSALY
8211 BELNEATH CT
RALEIGH NC 27613-6961

0777686131
HENRY, GEOFFREY L.
HUNTER, GWENDOLYN
8603 THUNDERWOOD DR
RALEIGH NC 27617-8732